



Reports of Standing and Special Committees on Bills and Other Matters

**Standing Committee on
Oversight of Government Operations and Public Accounts**

***Report on the Review of the
2012 Report of the Auditor General of Canada
to the Legislative Assembly of Nunavut
on Procurement of Goods and Services***

**Spring Sitting
3rd Session of the 3rd Legislative Assembly
May 2012**

**Ron Elliott, MLA
Chair**

**Louis Tapardjuk, MLA
Co-Chair**

**Moses Aupaluktuq, MLA
Tagak Curley, MLA
Joe Enook, MLA
John Ningark, MLA
Johnny Ningeongan, MLA
Hezakiah Oshutapik, MLA
Allan Rumbolt, MLA
Jeannie Ugyuk, MLA**

www.assembly.nu.ca

Mr. Speaker, I have the honour today of presenting the report of the Standing Committee on Oversight of Government Operations and Public Accounts on its review of the 2012 *Report of the Auditor General of Canada to the Legislative Assembly of Nunavut on Procurement of Goods and Services*.

Mr. Speaker, as you will recall, the Auditor General's report was tabled in the House on February 28, 2012. As with all other reports presented to the Legislative Assembly of Nunavut by the Auditor General since April 1, 1999, this report was referred to the appropriate Standing Committee for consideration.

The Standing Committee on Oversight of Government Operations and Public Accounts held its hearings on the Auditor General's report from April 24 to April 26, 2012. The hearings were open to the public and news media to observe. The hearings were broadcast live across Nunavut on cable television. Transcripts of the hearings are available for downloading from the Legislative Assembly's website.

Mr. Speaker, the presentation of this report marked Mr. Michael Ferguson's first formal appearance before a Standing Committee since his appointment as Auditor General of Canada in November of last year. Members of the Standing Committee are very much looking forward to his continuing the practice of appearing in person before our Standing Committee on the occasion of our annual public hearings on his office's reports.

I would also like to take this opportunity to note that the Standing Committee looks forward to following Mr. Ferguson's future reports to the Parliament of Canada that address federal programs that are of importance to our constituents in Nunavut, such as the Nutrition North Canada Program. I would also note that the Auditor General may wish to consider submitting a report to Parliament concerning the extent to which the Government of Canada is meeting its specific obligations under Article 24 of the *Nunavut Land Claims Agreement* concerning its procurement activities in the territory.

I would also like to acknowledge the participation of witnesses from the Government of Nunavut's Department of Community and Government Services, the Department of Economic Development and Transportation, the Nunavut Housing Corporation and the Qulliq Energy Corporation.

The Auditor General's report presented ten specific recommendations. These recommendations addressed the following thematic areas:

- Procurement Framework;
- Awarding of Contracts;
- Administration of Contracts;
- Entity Information;
- Awarding of Scheduled Medical Travel Contracts;

- NNI Policy; and
- Common Causes of Non-Compliance.

Mr. Speaker, I am pleased to note that the Standing Committee concurs with the recommendations of the Auditor General and notes that the government itself substantially agreed with all of the Auditor General's recommendations.

I would note that this is not the first time that the Office of the Auditor General has reported to the Legislative Assembly on the Government of Nunavut's contracting practices.

In its 2004 report to the Legislative Assembly, the Office of the Auditor General recommended that "all departments should review their practices to ensure that ... government contracting procedures are understood and followed" and that "key documents of all types are filed and indexed in a manner which allow them to be located and retrieved readily." At that time, the government's response to the Auditor General's report indicated that it would ensure that "contracting procedures are understood and followed and key documents are retained and filed."

In recent years, Members of the Legislative Assembly have raised a number of concerns regarding the government's procurement, contracting and leasing activities. As Members will recall, the government's annual reports on departmental procurement, contracting and leasing activities were referred to the Committee of the Whole for detailed consideration during the spring 2010 and spring 2011 sittings of the House. Annual procurement, contracting and leasing reports from the Nunavut Housing Corporation and the Qulliq Energy Corporation have also been considered in the Committee of the Whole.

During these proceedings, Members raised a number of important issues and questions concerning the government's practices with respect to the sole-sourcing of contracts; the extent to which the government relies on consultants to perform work that should be performed by its own employees; the need to ensure that reports produced by consultants are tabled in the Legislative Assembly in a timely manner; the means by which the government ensures that safeguards are in place to protect itself against such practices as bid-rigging; and the manner in which the government evaluates the results of its contracting, procurement and leasing expenditures.

I would also note that this Standing Committee has made a number of formal recommendations to the government in recent years concerning the timely preparation and tabling of its annual reports on contracting, procurement and leasing.

For example, in its October 29, 2010, report on the review of the 2009-2010 annual report of the Information and Privacy Commissioner, the Standing

Committee reiterated its recommendation that the Government of Nunavut table annual reports in the Legislative Assembly on the contracting, procurement and leasing activities for all of its Crown corporations and agencies.

The government's response to the Standing Committee's recommendation stated that:

“The Government [of Nunavut] agrees. The Public Agencies Council will work closely with the Ministers responsible for our territorial corporations with respect to the reporting of their contracting activities to ensure the timelines of reporting, transparency and accountability to Nunavummiut.”

Over the past year, there has been improvement in this area. Ministerial *Letters of Expectation* to the government's Crown agencies for the 2011-2012 fiscal year were tabled in the Legislative Assembly on October 27, 2011. Annual procurement, contracting and leasing reports have been tabled by the Nunavut Housing Corporation, the Nunavut Business Credit Corporation and the Qulliq Energy Corporation. However, the timeliness of these tablings could be improved.

Mr. Speaker, a number of themes and issues emerged during the Standing Committee's review of the Auditor General's most recent report to the Legislative Assembly.

Accordingly, the Standing Committee makes the following recommendations:

- 1. That the formal action plans of the Department of Community and Government Services, the Department of Economic Development and Transportation, the Nunavut Housing Corporation and the Qulliq Energy Corporation in response to the report and recommendations of the Auditor General be tabled in the Legislative Assembly no later than the first sitting day of its fall 2012 sitting.** During the Standing Committee's recent hearings, Members were disappointed to note that although witnesses representing the audited entities indicated that action plans were at various stages of development, these were not provided to Members at the time of the Standing Committee's hearings. This was in marked contrast to the practice of the Department of Health and Social Services and the Department of Human Resources, both of which presented detailed action plans on the occasion of the Standing Committee's hearings on the Auditor General's 2010 and 2011 reports to the Legislative Assembly. The Standing Committee also notes that the Department of Finance has tabled a number of status reports concerning its action plans to address past reports of the Auditor General. The Standing Committee also notes the importance of ensuring that departmental and Crown agency action plans include clear timelines and measurable outcomes to address the recommendations contained in the report of the Auditor General.

2. **That the Government of Nunavut’s Public Agencies Council (PAC) and the responsible Minister provide clear direction to the Qulliq Energy Corporation, by means of such mechanisms as the corporation’s annual *Letter of Expectation* and Ministerial directives, concerning the application of the NNI Policy to the corporation’s contracting and procurement activities.** During the Standing Committee’s hearings, testimony from the President of the Qulliq Energy Corporation made reference to language in Article 24 of the *Nunavut Land Claims Agreement* which provides that the definition of “territorial government” excludes the Northwest Territories Power Corporation. However, Members note that the Qulliq Energy Corporation’s 2012-2017 Corporate Plan, which was tabled in the Legislative Assembly earlier this year, specifically acknowledges that “QEC operates within the context of an 85% Inuit population, and the framework built by the *Nunavut Land Claims Agreement*. In particular, the Corporation works to implement Article 23 of the Agreement, which requires efforts to create a representative public service, and Article 24, which sets up a procurement preference for Inuit, Nunavut and local contractors.” Members also note that although the Workers’ Safety and Compensation Commission (WSCC) of the Northwest Territories and Nunavut is shared between the two jurisdictions, the entity utilizes a “Northern Incentive Adjustment” in its contracting and procurement activities.

3. **That the Government of Nunavut, in its response to this report, clarify its position concerning the territory’s participation in the Agreement on Internal Trade (AIT).** The Agreement on Internal Trade is “an intergovernmental trade agreement signed by Canadian First Ministers that came into force in 1995. Its purpose is to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services, and investment within Canada and to establish an open, efficient, and stable domestic market.” At present, Nunavut is the only Canadian jurisdiction that is a non-signatory to the agreement. However, the business plan of the Department of Executive and Intergovernmental Affairs indicates that one of its priorities during the 2012-2013 fiscal year is to “address Nunavut’s accession to the Agreement on Internal Trade.” During the Standing Committee’s hearings, testimony from the Deputy Minister of Economic Development and Transportation noted concerns with respect to Nunavut’s participation in the Agreement in relation to the preferential nature of the NNI Policy. However, the Standing Committee also notes that the Northwest Territories, which is a signatory to the Agreement, continues to maintain its own preferential Business Incentive Policy in relation to government contracting and procurement.

4. **That corrected versions of the 2009-2010 reports on contracting, procurement and leasing activities of the Nunavut Housing Corporation and the Qulliq Energy Corporation be tabled in the Legislative Assembly no later than the first sitting day of its fall 2012 sitting.** The report of the Auditor General noted that both of these documents contained errors. It is essential that accurate information be provided to Members of the Legislative Assembly concerning the contracting, procurement and leasing activities of the government's departments and Crown agencies.
5. **That the Government of Nunavut's comprehensive reviews of the NNI Policy and its public procurement practices specifically address the authority and mandate of the Contracting Appeals Board.** On March 1, 2012, the Premier announced in the Legislative Assembly that a comprehensive review of the NNI Policy will be undertaken in cooperation with Nunavut Tunngavik Incorporated (NTI). This announcement indicated that the Government of Nunavut will also undertake a parallel internal review of its public procurement practices. The Standing Committee emphasizes the importance of ensuring that these reviews are mindful that Article 24 of the *Nunavut Land Claims Agreement* is the foundation of the NNI Policy. The Standing Committee notes that NTI has publicly announced that it will undertake a review of its Inuit Firm Registry. At present, the Contracting Appeals Board's jurisdiction is limited to hearing appeals based on the application of the NNI Policy and its recommendations are not binding on the government. Strengthening the Board's authority to address appeals based on broader concerns could serve to enhance public confidence in the fairness and transparency of the government's contracting and procurement practices, as well as fulfilling an important dispute resolution function.
6. **That the Government of Nunavut's comprehensive review of the NNI Policy specifically address the issue of bonuses and penalties as they apply to small, medium and large firms; the issue of monitoring contractors' compliance with Inuit labour and training requirements and targets; and that the Government of Nunavut's annual departmental reports on contracting and procurement activities resume the practice of including detailed information concerning anticipated and actual bonus payments and penalties.** The Standing Committee emphasizes the importance of recognizing that the fundamental purpose of such tools as bonuses and penalties are to support Inuit employment and training in Nunavut. Although information concerning NNI Inuit Labour bonuses and penalties was contained in prior years' reports, it was not included in the government's most recent annual reports for the 2010-2011 fiscal year. The Standing Committee would also note the importance of ensuring that the government's annual reports include detailed information concerning Inuit labour content on construction projects, including actual numbers of Inuit employees, apprentices and trainees. This information is an important tool with which to evaluate the effectiveness of the NNI Policy in this area.

7. **That the Government of Nunavut’s comprehensive reviews of the NNI Policy and its public procurement practices specifically address the issue of the NNI Policy as it applies to municipal contracting and procurement.** Section 5.1(c) of the NNI Policy states that it applies to any contract “where the Government of Nunavut provides directly more than 51% of the annual operating funds of one of the parties.” Although municipal governments in Nunavut receive a significant portion of their operating budgets from the territorial government, the extent to which they are required to apply the NNI Policy is unclear. The Standing Committee notes that a recent tender issued by the City of Iqaluit for landfill water management improvements specifically indicated that the NNI Policy would be applied.
8. **That the Government of Nunavut, in its response to this report, provide a list of the specific issues identified for discussion by the Procurement Division of the Department of Community and Government Services, as noted in the formal opening statement to the Standing Committee of the department’s lead witness, in relation to the government’s comprehensive review of the NNI Policy.**
9. **That the Government of Nunavut, in its response to this report, provide a list of the specific forms and templates that have been developed and/or amended by the Department of Community and Government Services within the preceding twelve months utilizing input from the Department of Justice, as noted in the formal opening statement to the Standing Committee of the department’s lead witness, and that the list include a detailed rationale for specific changes to previously existing forms and templates.**
10. **That the Government of Nunavut, in its response to this report, provide detailed information concerning its contract awards for scheduled medical travel and government duty travel made pursuant to its 2011 *Request for Proposals for Medical Travel on Scheduled Airlines (RFP 2011-22)*. The information provided should address the following issues.** During the Standing Committee’s hearings, Members were surprised at the lack of information in the possession of government witnesses concerning such issues as which airlines or entities were awarded contracts under this RFP, the market shares awarded to each successful proponent, the reasons for the government’s delay in signing the formal contracts, the rationale for increasing the number of possible contract extensions and the methodology by which the government will evaluate the extent to which its contract awards will achieve the RFP’s stated goal of “improving scheduled airline services throughout Nunavut.”

Mr. Speaker, I will conclude by noting that the Standing Committee, pursuant to Rule 91(5), formally requests that the government table a comprehensive response to this report within 120 days.

Mr. Speaker, I move that the report of the Standing Committee be received by the House.

Thank you, Mr. Speaker.